

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7178

BILL NUMBER: HB 1661

NOTE PREPARED: Jan 24, 2003

BILL AMENDED:

SUBJECT: Nursing Home Complaints.

FIRST AUTHOR: Rep. Day

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X

**GENERAL
DEDICATED
FEDERAL**

IMPACT: State

X

Summary of Legislation: This bill allows a person who complained of an offense or deficiency by a health facility to have the results of the investigation reviewed. The bill provides that a health facility that does not provide health records of a deceased patient to a person entitled to the information commits a breach for noncompliance.

Effective Date: July 1, 2003.

Explanation of State Expenditures: *Review of Investigations:* The bill allows the person who complained of an offense or deficiency by a health facility to have the results of the investigation reviewed. The State Department of Health (DOH) reports that approximately 3,500 complaints are filed each year. No information was reported on the number of these complaints that involved offenses or deficiencies. Offenses and deficiencies are the most serious of the breaches as they are classified by the Department. The assumption is that any investigation that does not make the conclusions the complainant desires, would potentially be subject to additional review. The ultimate cost of this provision will be dependent upon legislative or administrative actions taken since the term "review" is not explained in the bill. If "review" is interpreted to mean the Department must resurvey the facility within the 60-day time-frame specified in the bill, this provision could be costly. A resurvey would require assigning a survey team of four professionals to revisit the facility. If the term is interpreted to mean that a paper administrative review of the complaint and survey be conducted in the Department, the cost involved would be less. The Department reports that they currently do not have sufficient survey teams to do all the required surveys of health facilities due to the inability of the state to pay wages that attract the necessary qualified professionals.

Provision of Written Response: The bill provides that the director must provide a written response to the party who complained of an offense or breach. The response must contain information about the availability of the surveyor notes and that the investigative report of the results of the licensure inspection related to the complaint is available upon request and how to go about requesting this information. This requirement is mainly administrative in nature and should not be a problem to the Department of Health since I.C.16-28-1-

14(a) already requires the Department to make the reports available and provides for a fee covering direct and indirect costs. The survey reports may be quite lengthy and expensive to copy, however the reports are available for inspection in the offices of the Department, and current law requires the health facilities to maintain and keep inspection reports for two years. These reports are further required to be made available for public inspection upon request. According to the Department's internet web site, the Department currently informs alleging parties of the results of the investigation in writing.

Explanation of State Revenues: *Noncompliance Breach:* This bill provides that a health facility that does not provide health records of a deceased patient to a person entitled to the information commits a breach for noncompliance. The remedies for a breach of noncompliance are the suspension of new admissions for a period not to exceed 15 days, the imposition of a fine not to exceed \$1,000, or both. If the Commissioner of the Department of Health imposes a remedy and the facility immediately corrects the breach, the Commissioner may reduce the remedy by not more than 50%. If a breach that is a noncompliance is repeated within a 15-month period, the Commissioner may impose a remedy of suspension of new admissions for not more than 30 days, imposition of a fine not to exceed \$5,000, or both. The fiscal impact of the bill would be dependent upon the number of times a breach of failure to provide records would occur and what fines would be imposed by the Commissioner. Fines collected by the State Department are deposited in the state General Fund.

Explanation of Local Expenditures: County-owned nursing facilities would be subject to the imposition of noncompliance fines addressed by this bill if this breach were committed.

Explanation of Local Revenues:

State Agencies Affected: Indiana Department of Health.

Local Agencies Affected:

Information Sources: Zach Cattell, Legislative Liaison for the Department of Health, (317) 233-2170; I.C. 16-28-5-4; and [Http://www.state.in.us/isdh/regsvcs/ltc/complaints/index.htm](http://www.state.in.us/isdh/regsvcs/ltc/complaints/index.htm)

Fiscal Analyst: Kathy Norris, 317-234-1360